

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In Re:

Julia Rosales

Debtor.

**NOTICE OF PRESENTMENT TO
VACATE THE AUTOMATIC STAY**

Case No.: 18-78239-las
(Chapter 7)

Assigned to:
Hon. Louis A. Scarcella
Bankruptcy Judge

PLEASE TAKE NOTICE that an order will be presented for signature to the Honorable Louis A. Scarcella at 290 Federal Plaza, Central Islip, NY 11722 on the Fifteenth day of April, 2019. The proposed order will seek to vacate the automatic stay imposed by 11 U.S.C. §362 with regard to the premises commonly known as 78 Ormonde Boulevard, Valley Stream, NY 11580 a copy of which order is annexed hereto.

If you have good reason to object to the granting of the proposed order, you must do so in writing and at least seven (7) days before the order is to be signed. You must serve the undersigned and all other entities to whom this motion has been noticed, as indicated below, with a copy of your objections stating the legal grounds and the facts which establish the reasons for your objections. The objections shall identify the motion to which they are addressed by name of moving party, date of the hearing, relief sought by the motion, and by title, caption, and index number of the case in which the motion is made. Within the same time you must also file with the clerk of the Court the original of your objections together with proof by affidavit, admission, or otherwise that copies have been properly served. If no proper objections are timely filed and served and if the judge is satisfied from the application that the moving party is entitled to the relief sought, the order may be signed without a hearing. If proper objections are timely filed and served, a hearing will be held before the Court on May 2, 2019 at 10:00 am at 290 Federal Plaza, Central Islip, NY 11722. If no objections are filed, the Court may sign the order without further proceedings, or may direct that the hearing be held notwithstanding the absence of objections.

DATED: March 20, 2019
Williamsville, New York

Yours, etc.

By:



Courtney R Williams, Esq.
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Attorneys for Secured Creditor
Nationstar Mortgage LLC as servicing agent for
Deutsche Bank National Trust Company as
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TO:

Julia Rosales
78 Ormonde Blvd
Valley Stream, NY 11580

Luis R. Trujillo
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Long Island City, NY 11101

Marc A Pergament
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Suite 403
Garden City, NY 11530

Office of the United States Trustee
560 Federal Plaza - Room 560
Central Islip, NY 11722-4437

Debtor

Attorney for Debtor

Chapter 7 Trustee

U.S. Trustee

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

AFFIRMATION

In Re:

Case No.: 18-78239-las
(Chapter 7)

Julia Rosales

Debtor.

Assigned to:
Hon Louis A. Scarcella
Bankruptcy Judge

I, Courtney R Williams, Esq am an attorney duly licensed to practice law in the Courts of this State and in the United States Bankruptcy Court for the Eastern District of New York and hereby state as follows:

1. I submit the within Affirmation under penalty of perjury in support of the motion of Nationstar Mortgage LLC as servicing agent for Deutsche Bank National Trust Company as Trustee for Merrill Lynch Mortgage Investors Trust, Mortgage Loan Asset-Backed Certificates, Series 2007-MLN1 ("Secured Creditor"), a Secured Creditor of the above-referenced Debtor, to terminate the automatic stay in this case with respect to the real property commonly known as 78 Ormonde Boulevard, Valley Stream, NY 11580.

2. Secured Creditor is the holder of a note executed by Julia Rosales on or about the 16th day of November, 2006 in the principal amount of \$488,000.00 and interest (the "Note"), secured by a mortgage bearing even date therewith, which is recorded in the Office of the Nassau County Clerk on the 30th day of November, 2006 in Liber M 31262 of Mortgages at Page 913-938 covering the premises commonly known as 78 Ormonde Boulevard, Valley Stream, NY 11580 (the "Mortgaged Premises"). A copy of the Note, Mortgage and Assignment, is annexed hereto as **Exhibit 'A'**.

3. On the 6th day of December, 2018 Debtor Julia Rosales filed a Petition under Chapter 11 of Title 11 U.S.C. §101 et seq with this Court, and an Order for relief was duly entered. On the 7th day of February, 2019, the case converted to one under Chapter 7 of Title 11 U.S.C. §101.

4. The Note and Mortgage provide that the Debtor will be in default if they do not make full monthly payments on each due date. As of February 12, 2019, the Debtor is due for 8 payments in the amount of \$3,950.10 each for the months of May 1, 2011 to December 1, 2011, 24 payments in the amount of \$4,467.35 each for the months of January 1, 2012 to December 1, 2013, 6 payments in the amount of \$4,505.07 each for the months of January 1, 2014 to June 1, 2014, 6 payments in the amount of \$3,826.74 each for the months of July 1, 2014 to December 1, 2014, 48 payments in the amount of \$4,496.80 each for the months of January 1, 2015 to December 1, 2018 and 2 payments in the amount of \$4,922.24 each for the months of January 1, 2019 to February 1, 2019 and has not cured said default. Furthermore, 1 payment due on March 1, 2019 and April 1, 2019 will be due at the date this motion is heard. A Motion for Relief from Stay Worksheet is attached hereto as **Exhibit 'B'**.

5. As of the 12th day of February, 2019 there is a total indebtedness on the Note and Mortgage in the sum of \$878,437.15. Interest on the unpaid principal balance will continue to accrue, and to protect its security in the Mortgaged Premises Secured Creditor may be required to make advances for property taxes, insurance and related matters.

6. Based on the BPO attached hereto as **Exhibit 'C'**, said real property is valued at \$439,000.00. Based on the Secured Creditor's lien amount and the value of the Mortgaged Premises, there is no equity in the premises.

7. Section 362(d)(1) of the Bankruptcy Code provides in pertinent part that the Court shall grant relief from the stay imposed by Section 362(a) "for cause, including lack of adequate protection of an interest in property..." As set forth above, cause exists to vacate the automatic stay as the Debtor has failed to make monthly mortgage payments to Secured Creditor.

8. Furthermore, Section 362(d)(2) of the Bankruptcy Code provides in pertinent part that the Court shall grant relief from stay imposed by Section 362(a) if "(A) the debtor does not have equity in such property; and (B) such property is not necessary to an effective reorganization." See, 11 U.S.C. § 362(d)(2)(A)-(B). Therefore, the Secured Creditor is entitled to relief pursuant to 11 U.S.C. § 362(d)(2) as there exists no equity in the Premises after costs of sale. The Secured Creditor submits that the Mortgaged Premises are not necessary for the effective reorganization of the Debtor as the instant case is a Chapter 7 liquidation case.

9. Debtor is entitled to a homestead exemption as the Mortgaged Premises is also his/her homestead.

10. A copy of a proposed Order granting the relief sought by Secured Creditor is annexed hereto as **Exhibit 'D'**.

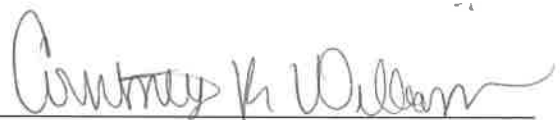
11. No prior application has been made for the relief requested herein.

WHEREFORE, Secured Creditor respectfully requests that an Order be granted terminating the automatic stay immediately as to Secured Creditor's interest in the Mortgaged Premises together with such other, further and different relief as the Court may deem just in this matter.

DATED: March 20, 2019
Williamsville, New York

Yours,

By:



Courtney R Williams, Esq
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